

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

BRYAN RISER,
Plaintiff,

vs.

ESTEBAN MONTENEGRO,
Defendant.

§
§
§
§
§
§
§
§

Civil Action No. 3:22-CV-01014-K

**DEFENDANT ESTEBAN MONTENEGRO'S
NOTICE OF CORRECTION TO MOTION FOR SUMMARY JUDGMENT**

Defendant Esteban Montenegro (hereinafter “Defendant” or “Montenegro”) files this Notice of Correction to Motion for Summary Judgment. In support thereof, Defendant respectfully shows the following:

I.

On November 20, 2023, Defendant filed his Motion for Summary Judgment, Brief in Support of Motion for Summary Judgment, and Appendix in Support of Motion for Summary Judgment. (*See* Dkt. Nos. 35, 36, and 37). Defendant’s Motion for Summary Judgment contains an inadvertent mistake in its recitation of facts. Specifically, the motion states that “Mr. Kilpatrick told Montenegro that he met with Mr. Riser and Mr. Simmons at Miller Park located at 2800 Persimmon Road. App. at p. 003 [E. Montenegro Aff., ¶10]. At that location, Mr. Riser talked about the plan to kidnap and kill Ms. Saenz. *Id.* Mr. Riser also showed Mr. Kilpatrick and Mr. Simmons a picture of Ms. Saenz and Mr. Riser told them Ms. Saenz’s name. *Id.*” (*See* Dkt. No. 35, p. 4, ¶8).

What Esteban Montenegro’s affidavit actually states, however, is that Kilpatrick told Montenegro that Riser met Kilpatrick and Simmons “at Miller Park located at 2800 Persimmon Road. At this location, Mr. Riser talked about the plan to kidnap and kill Ms. Saenz. Mr. Riser

also showed Mr. Kilpatrick a picture of Ms. Saenz and Mr. Riser told Kilpatrick Ms. Saenz's name." (*See* Dkt. No. 37, App. p. 003, [E. Montenegro Aff., ¶10]).

II.

Defendant's motion for summary judgment thus mistakenly and inadvertently states that Riser showed Kilpatrick and Simmons a picture of Saenz and told Kilpatrick and Simmons Saenz's name, when in fact Riser showed only Kilpatrick a photo of Saenz and only gave Saenz's name to Kilpatrick. Defendant files this notice to apprise the Court and Plaintiff of this error in the motion for summary judgment and to correct same.

WHEREFORE, PREMISES CONSIDERED, Defendant Montenegro prays that the Court grant his motion for summary judgment and that any and all of Plaintiff's claims against Montenegro be dismissed, with prejudice to the refile of same; Defendant further prays that Plaintiff take nothing by this suit; that all relief requested by Plaintiff be denied; and that Defendant recover all costs of suit and attorney's fees; Defendant further prays for such other and further relief, both general and special, at law or in equity, to which he may show himself to be justly entitled.

Respectfully submitted,

/s/ Stephen D. Henninger

THOMAS P. BRANDT

State Bar No. 02883500

tbrandt@fhmbk.com

STEPHEN D. HENNINGER

State Bar No. 00784256

shenninger@fhmbk.com

CHRISTOPHER BRANDT

State Bar No. 24072262

cbrandt@fhmbk.com

**FANNING, HARPER, MARTINSON,
BRANDT & KUTCHIN, P.C.**

One Glen Lakes

8140 Walnut Hill Lane, Suite 200

Dallas, Texas 75231

(214) 369-1300 (office)

(214) 987-9649 (telecopier)

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on November 27, 2023, I electronically filed the foregoing document with the Clerk of the Court through the ECF system and an email notice of the electronic filing was sent to all attorneys of record.

/s/ Stephen D. Henninger

STEPHEN D. HENNINGER